

HEALTH AND SAFETY CODE

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ARTICLE 3. FOOD & FOOD SERVICE

[NOTE: Except as otherwise noted, the provisions of Article 3 of the Health and Safety Code enacted on May 14, 1983 by Section 2 of Ordinance No. 83-2 were repealed and replaced with this Article 3. Food & Food Service on March 12, 2012 by Ordinance 12-02, effective on upon the date of its enactment.]

CHAPTER 1. GENERAL PROVISIONS

Section 3-101. Purpose.

The purpose of this Article is to provide the following:

- (1) A mechanism for the Colorado River Indian Tribes’ (“CRIT” or “Tribe”) to implement public food safety; and
- (2) A mechanism for CRIT to monitor the health and safety of food services provided to the general public.

Section 3-102. Definition.

- (a) “CFSMC” shall stand for “certified food service manager certificate” that is recognized under the FDA Food Code.
- (b) “Contaminated” shall mean containing any substance in excess of an established tolerance or in a quantity that may be injurious to human health, or containing harmful bacteria or other organisms, as well as any food processed, prepared or packed under unsanitary conditions making contamination likely, or which is produced from an animal that died other than by slaughter, or which is contained in a package composed in any part of toxic substances.
- (b) “Enforcement Authority” shall mean the Department of Health Services (DHS) or a designated alternate authority by the Tribal Council by resolution.
- (c) “FDA Food Code” shall mean the model Food Code issued by the United States Food & Drug Administration and all its amendments thereafter.
- (d) “Food establishments” shall mean both temporary and permanent food establishments where potentially hazardous foods are prepared.
- (e) “Food” shall mean all substances intended for human consumption, whether nutritive or medicinal.

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(f) "Food handler" shall mean any person who handles food during storage, preparation or serving, or who comes in contact with any eating or cooking utensils or food service equipment that is prepared for the access of general public regardless whether the food is being provided for a fee or gratuitous.

(g) "FHC" shall stand for food handler card.

(h) "Food service manager" shall mean an operator or other person who has completed the requirements for, and obtained, a food service manager card issued by the Enforcement Authority or his/her authorized representative.

(i) "FSM" shall stand for "food service manager".

(j) "Health inspector" shall mean the person(s) designated person by CRIT DHS or by the Tribal Council to enforce the provision of this Article and/or the Service Unit Director of the United States Public Health Service, Indian Health Service, Colorado River Service Unit at Parker, or their authorized representative(s).

(k) "Infectious or contagious disease" shall mean any communicable disease except those which may from time to time be listed by the Enforcement Authority as exceptions from the requirements of this Article.

(l) "Law enforcement officials" shall mean CRIT uniformed police officers under the CRIT Law Enforcement Services Department.

(m) "Misbranded" shall mean bearing an identifying label which is illegible, deceptive or misleading, or which omits a material fact, as to the condition, nature, components, or quantity of food offered for sale.

(n) "Operator" shall mean any person who, by contract, agreement or ownership, takes the responsibility for the operation of a food establishment.

(o) "Permit" shall mean the certificate issued by the Enforcement Authority for permanent and temporary food establishments.

(p) "Permanent food establishment" shall mean any of the following places:

- (1) Restaurants, cafeterias, food trucks, food carts, ice cream trucks, and other places where food is prepared for immediate consumption, with or without fee;
- (2) Places where food is cleaned, processed or packaged for sale;

- (3) Places where uncooked meats, fruits, vegetables, fish or dairy products are offered for sale; and
 - (4) Private individual homes where food is prepared for the immediate consumption by the public regardless where the food is being provided for a fee.
- (q) “PFE” shall stand for “permanent food establishment”.
- (r) “Public” shall mean pertaining to, affecting, or allowing access to the community as a whole, without any limitations to access where the food are being provided for a fee or gratuitous.
- (s) “Reservation” shall mean the Colorado River Indian Reservation.
- (t) "Risk assessment" shall mean an inspection of a food establishment and an evaluation thereof by a health inspector to determine the potential for a food borne illness to occur as a result of food manufactured, prepared, packed, stored, sold or distributed by the food establishment; such an assessment may include an analysis on one or more occasions of food.
- (u) “Temporary food establishment” shall mean places which operate temporarily in connection with a rodeo, fair, fundraiser or other public event.
- (v) “TFE” shall stand for “temporary food establishment”.

Section 3-103. Applicability.

This Article shall apply to all food establishments and food handlers within the exterior boundaries of the Colorado River Indian Reservation (“Reservation”).

CHAPTER 2. AUTHORITY AND INTERPRETATION

Section 3-201. Enforcement Authority.

The Tribe expressly authorizes the Department of Health Services (DHS) to enforce the provision of this Article. In the event that DHS is not able to perform the enforcement functions under this Article, the Tribal Council shall authorize an alternate enforcement authority by resolution. The Enforcement Authority shall have the powers to designate the Health Inspector(s).

Section 3-202. Interpretation.

The Enforcement Authority shall apply the *FDA Food Code’s* standards, and all of its amendments thereafter, to promote its underlying purpose, of safeguarding public health and

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ensuring that food is safe, unadulterated, and honestly present when offered to the public. In the event that the *FDA Food Code* and its subsequent amendments are in conflict with or contradict this Article, the provisions in this Article shall supersede those of the *FDA Food Code*.

Section 3-203. Powers of Health Inspector.

The Health Inspector, under the direction of the Enforcement Authority, shall have the following powers:

- (1) Shall assess existing food establishments and their equipment in use before the effective date of this ordinance, based on *FDA Food Code*.
- (2) Shall, if necessary, to protect against public health hazards and impose specific requirements in addition to the requirements contained in the *FDA Food Code*. The Health Inspector shall document said conditions.
- (3) May grant a variance as identified the *FDA Food Code*.
- (4) May require the permit holder to submit a Hazardous Analysis & Critical Control Points (HACCP) plan as specified in the *FDA Food Code*.
- (5) Shall treat as trade secrets as confidential as specified in the *FDA Food Code*.
- (6) Shall conducted one or more pre-operation inspection.
- (7) Shall inspect all food establishments serving the public.
- (8) Shall have the knowledge, skills and abilities to adequately perform the required duties as identified in the *FDA Food Code*.
- (9) Shall receive and review facility plans.

CHAPTER 3. FOOD ESTABLISHMENT REQUIREMENTS

Section 3-301. The Presence of a Food Service Manager.

The enforcement of this Section 3-301 shall commence twelve (12) months after the affective date of this Ordinance.

It shall be unlawful for any person and/or food establishment to violate any provision of this Subsection 3-301 and shall be subject to such person and/or food establishment to civil citations under Chapter 8 of this Article.

- (a) All food establishments must have a food service manager (FSM) to supervise the food handlers.
- (b) The name(s) of the establishment's FSM shall post in a conspicuous place in the food establishment, in letters not less than one inch in size.
- (c) No food establishment owner or operator shall employ one (1) FSM to supervise the food handlers of two (2) or more food establishments.
- (d) All FSMs must possess a current certified food service manager certificate (CFSMC).

Section 3-302. Food Establishment Permit.

All food establishments operating on the Reservation must have a valid current food establishment permit ("Permit") issued by the Enforcement Authority. Failure to operate a food establishment with a valid Permit shall subject the food establishment to civil penalties under Chapter 8 of this Article.

Section 3-303. New Ownership or Operation.

Application for a new Permit must be made within ten (10) days of any change in the ownership or operation of a food establishment. Failure to apply within this period may result in revocation of any existing Permit, and may be grounds for refusal by the Enforcement Authority to issue a new Permit.

Section 3-304. Structural Modification.

Prior to any significant structural alteration or addition to a food establishment, the applicant must file one (1) copy of the plans and specifications to the Enforcement Authority for review by the Health Inspector. Failure to obtain Enforcement Authority's approval for structural changes may result in revocation of any existing Permit.

Section 3-305. Waiver of the Permit Requirement.

A waiver of the Permit requirement can be granted for the only following food establishments that sell or distribute exclusively the following food to the public:

- (1) Fresh fruits and vegetables, especially home-grown items;
- (2) Un-popped popcorn and other seeds; and
- (3) Fresh or dried herbs.

Section 3-306. Annual Permit; Renewal; Fees.

All permanent food establishments (PFEs) must have an annual Permit prior to operation. The permitting process is as follows:

- (1) Each annual Permit shall expire twelve (12) months from the date that it was issued.
- (2) The permittee must keep the Permit posted at all times in a conspicuous place at the establishment for which it has been issued.
- (3) An application for the renewal of an annual Permit shall be treated as an application for a new Permit.
- (4) An application for a Permit must be accompanied by a non-refundable application fee of twenty-five dollars (\$25.00). No further fees will be charged for the issuance of a Permit.

Section 3-307. Temporary Permit; Renewal; Fees.

All temporary food establishments (TFEs) must have a temporary Permit prior to operation. The permitting process is as follows:

- (1) Each temporary Permit shall expire ninety (90) days from the date that it was issued.
- (2) The permittee must keep the Permit posted at all times in a conspicuous place at the establishment for which it has been issued.
- (3) An application for the renewal of a temporary Permit shall be treated as an application for a new Permit.
- (4) An application for a temporary Permit must be accompanied by a non-refundable application fee of ten dollars (\$10.00). No further fees will be charged for the issuance of a temporary Permit.

Section 3-308. Permit Fee Exemption Entities.

The following entities, whether they are PFEs or TFEs, shall not be required to pay a fee for the issuance of a Permit under this Article:

- (1) Any church engaged in raising funds for religious or charitable purposes;
- (2) Any school, club, or athletic organization engaged in staging athletic events for which an admission fee is charged, provided such admission fees do not accrue to the personal benefit of any individual; and
- (3) Any accredited school, no part of the income of which accrues to the personal benefit of any individual;
- (4) Any other business, the entire proceeds of which, are distributed to any charitable, religious, educational, or other eleemosynary group or organization.

Section 3-309. Application of Permit.

(a) Application for a Permit must be made in writing to the Enforcement Authority on the forms it prescribes, and shall include the name, address and signature of the applicant, the name and address of the food establishment and a legal description of its location, a description of the type of food processing or service to be provided, financial references and specific identification of the applicant's previous experience if any in the operation of food establishments.

(b) The Enforcement Authority will grant the Permit only if it is satisfied, after reviewing the application and an inspection report submitted by the Health Inspector, that operation of the establishment in the manner proposed will comply with this Article.

Section 3-310. Granting; Denial; Notice.

(a) An applicant must be notified within thirty (30) days of any decision by the Enforcement Authority to grant or deny an annual Permit.

(b) An applicant must be notified within seven (7) days of any decision by the Enforcement Authority to grant or deny a temporary Permit.

(c) All notices of denial shall be in writing and is effective when personally delivered to the applicant, upon receipt by certified mail by the applicant, or when posted conspicuously at the food establishment.

Section 3-311. Revocation; Notice.

(a) Permit may be revoked if the food establishment has two (2) suspensions under Section 3-605 within a twelve-month period. Revocation of a Permit (temporary or annual) is effective upon notice, unless a later date is specified in the notice of revocation.

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(b) Notice of revocation shall be in writing and is effective when personally delivered to the permittee, upon receipt by certified mail by the permittee, or when posted conspicuously at the food establishment.

CHAPTER 4. FOOD SERVICE MANAGER AND FOOD HANDLER REQUIREMENTS

It shall be unlawful for any food service manager and food handler to work in a food establishment unless such person shall have first completed the requirements for, and obtained, a CFSMC (for food service manager) and a FHC (for food handlers) recognized by the Enforcement Authority. Failure to possess a current and valid CFSMC or FHC shall subject a person and/or food establishment to civil penalties under Chapter 8 of this Article.

Section 3-401. Certified Food Service Manger Certificate and Food Handler Card.

CFSMC and FHC required by this Article, unless such CFSMC and FHC falls under Section 3-402, shall be issued by the Enforcement Authority or its designee only to food handlers and food service managers who shall furnish such information and laboratory specimens and submit to such physical examination and tests as the Enforcement Authority may require and/or who have received such instructions in personal hygiene and food establishment sanitation as may be offered or required by the Enforcement Authority.

This provision shall be enforceable twelve (12) months after of the effective date of this Code.

Section 3-402. Waiver of the Certified Food Service Manager Certificate Requirement.

TFEs may be waived the CFSMC requirement if, upon inspection, the food service manager and/or operator can prove they otherwise meet the requirements of the *FDA Food Code* demonstration of knowledge.

Section 3-403. Recognition of Certified Food Service Manager Certificate and Food Handler Card by Other Entities.

A CFSMC or FHC issued by another city, county or organization shall be honored in the reservation until its expiration, provided that requirements to obtain such card were equal or greater than those set forth in this Article. Determinations concerning such requirements shall be made by the Enforcement Authority. A complete list of approved CFSMC and FHC will be maintained at the administrative office of the Enforcement Authority.

Section 3-404. Fees; Renewal; Revocation; Transfer.

- (a) The Enforcement Authority may set an application fee as deems appropriate for CFSMC or FHC to defray the necessary administrative expenses.
- (b) Each CFSMC or FHC issued shall remain in force until date of expiration or until suspended or revoked by the Enforcement Authority for cause.
- (c) The Enforcement Authority may cease the recognition of a CFSMC or FHC accepted under Section 3-402 for cause.
- (d) A CFSMC or FHC issued under the provisions of this Article shall be produced by the food handler or food service manager for inspection upon the request of the Enforcement Authority or his/her designated representative.
- (e) Upon the expiration of the CFSMC or FHC, the holder thereof may renew the same by payment of the fee prescribed in this Chapter and by successfully completing such training classes and/or tests set by the Enforcement Authority. The date, time and location of said classes or tests shall be determined by the Enforcement Authority.
- (f) A CFSMC or FHC issued under this article shall not be transferred to or used by any person other than the person to whom it is issued. The CFSMC or FHC the property of the designated person on the card.

CHAPTER 5. MOBILE ICE CREAM VENDORS

Section 3-501. Permit and Food Handler Card Requirement.

All mobile ice cream vendors must have a valid and current Permit, CFSMC and FHC. Failure to operate with a current and valid Permit, CFSMC and FHC shall subject a person and/or food establishment to civil penalties under Chapter 8 of this Article.

Section 3-502. Liability Insurance.

- (a) Any person operating an ice cream or ice confectioneries vendor's vehicle shall, before operating under the provisions of this article, secure and file with the city clerk a certificate evidencing that a policy of automobile liability insurance coverage issued by a company authorized to do business on the reservation has been obtained by such person, in the amount of at least one hundred thousand dollars (\$100,000.00) for injury to or death of one person and three hundred thousand dollars (\$300,000.00) for injury to or death of more than one person in any one accident and twenty-five thousand dollars (\$25,000.00) for property damage.
- (b) It shall be unlawful for any food establishment to violate any provision of this Subsection and shall be subject to such person and/or food establishment to civil citations and shall be fined

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not more than Five Hundred Dollars (\$500.00) for each violation. Each day during which such unlawful operation shall continue shall constitute a separate violation. Any person adjudged to have engaged in a pattern or practice of violating this Article may be liable for punitive damages in an amount not to exceed one thousand dollars (\$1,000).

Section 3-503. Signs and Lights for Vehicle.

(a) A mobile ice cream vendor's vehicle shall conform to the requirements of the Tribe and the Arizona or California state motor vehicle laws.

(b) It shall be unlawful for any food establishment to violate any provision of this Subsection and shall be subject to such person and/or food establishment to civil citations and shall be fined not more than Five Hundred Dollars (\$500.00) for each violation. Each day during which such unlawful operation shall continue shall constitute a separate violation. Any person adjudged to have engaged in a pattern or practice of violating this Article may be liable for punitive damages in an amount not to exceed one thousand dollars (\$1,000).

Section 3-504. Operation Hour.

(a) No person shall operate an ice cream and other ice confectioneries vendor's vehicle on the streets of the city between the hours of 10:00 p.m. and 7:00 a.m., Sunday through Thursday, and between the hours of 11:00 p.m. and 7:00 a.m., Friday and Saturday. The noise-making device to attract customers on a vehicle operated for the sale of ice cream or ice confectionaries shall not so loud as to unreasonably disturb or disrupt the peace and quietude of any reasonable person of ordinary sensitivity on the Reservation.

(b) It shall be unlawful for any food establishment to violate any provision of this Subsection and shall be subject to such person and/or food establishment to civil citations and shall be fined not more than Five Hundred Dollars (\$500.00) for each violation. Each day during which such unlawful operation shall continue shall constitute a separate violation. Any person adjudged to have engaged in a pattern or practice of violating this Article may be liable for punitive damages in an amount not to exceed one thousand dollars (\$1,000).

Section 3-505. Vending Rules.

(a) When the operator of a vehicle used for selling or dispensing ice cream or ice confectioneries stops such vehicle to sell or dispense products, the following rules shall be observed:

- (1) The vehicle shall be pulled to the curb of the street or shoulder of the road or public way and the motor of such vehicle shall be cut off, except when the operation of the motor is necessary for producing the product.

(2) Stops shall not be within one hundred (100) feet of any intersection.

(b) It shall be unlawful for any food establishment to violate any provision of this Subsection and shall be subject to such person and/or food establishment to civil citations and shall be fined not more than Five Hundred Dollars (\$500.00) for each violation. Each day during which such unlawful operation shall continue shall constitute a separate violation. Any person adjudged to have engaged in a pattern or practice of violating this Article may be liable for punitive damages in an amount not to exceed one thousand dollars (\$1,000).

Section 3-506. Prohibited Stop and Parking.

(a) It shall be unlawful for any food establishment to violate any provision of this Subsection and shall be subject to such person and/or food establishment to civil citations and shall be fined not more than Five Hundred Dollars (\$500.00) for each violation. Each day during which such unlawful operation shall continue shall constitute a separate violation. Any person adjudged to have engaged in a pattern or practice of violating this Article may be liable for punitive damages in an amount not to exceed one thousand dollars (\$1,000).

(b) No vehicle used for dispensing or selling ice cream or ice confectioneries shall be stopped for the purpose of selling or dispensing products therefrom on any street or public way having a speed limit above twenty-five (25) miles per hour.

(c) Vehicle not to be parked on street except to sell or dispense products. A vehicle used for selling or dispensing ice cream or ice confectioneries shall not be parked on any street when not in operation for selling or dispensing its products.

CHAPTER 6. INSPECTION AND COMPLIANCE

Section 3-601. Civil Penalties.

All food establishments must abide the requirements under the FDA Food Code and this Chapter. Violation of the FDA Food Code and this Article shall subject said food establishments to civil penalties under Chapter 8 of this Article.

Section 3-602. Inspections.

(a) The Health Inspector may enter a food establishment at any time food workers are present to examine equipment and procedures, and to obtain samples of food or other substances for laboratory analysis.

(b) Any attempt by the owner, food service manager or handler of a food establishment to prevent, obstruct or restrict an inspection will result in revocation of any existing permit.

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(c) Inspections of food establishments shall be made as often as the Health Inspector and Enforcement Authority deem advisable for the protection of public health and safety.

Section 3-603. Inspection Reports.

Before leaving a food establishment, the Health Inspector will leave one (1) copy of his/her report with the owner, operator, or food service workers. A second copy will be filed with the Enforcement Authority with the Health Inspector's recommendations.

Section 3-604. Warnings.

(a) On the recommendation of the Health Inspector following an inspection, the Enforcement Authority may issue a written warning to the permittee identifying corrective actions that must be taken within a specified time to avoid permit revocation.

(b) Notice of warning is effective when personally delivered to the permittee, upon receipt by certified mail by the permittee, or when posted consciously at the food establishment.

(c) If re-inspection does not satisfy the Health Inspector and Enforcement Authority that all corrective actions identified in a warning have been taken within the time specified, the food service permit for the establishment will be suspended under Section 3-605 of this Chapter.

Section 3-605. Suspensions.

(a) In instances of immediate and unavoidable danger to public health and safety, the Enforcement Authority may, on the recommendation of the Health Inspector following an inspection, order suspension of a food service permit at once. An order of suspension is effective upon notice.

(b) Notice of suspension shall be in writing and is effective when personally delivered to the permittee, upon receipt by certified mail by the permittee, or when posted conspicuously at the food establishment.

(c) A suspension remains in effect until the permittee satisfies the Health Inspector and Enforcement Authority that adequate measures have been taken to correct the conditions which resulted in the order.

Section 3-606. Contagion.

(a) On the recommendation of the Health Inspector that a food service worker is likely to communicate a contagious or infectious disease to patrons or handlers of a food establishment, the Enforcement Authority may do any and all of the following:

- (1) Order suspension of a food service permit.
- (2) Order the immediate exclusion of the food service worker from all food establishments by notice to those establishments.
- (3) Require medical examinations of the food service worker and others with whom he recently worked as a condition for their continued employment or re-employment.

(b) An order of exclusion of a food service worker is effective upon notice.

(c) Notice of exclusion shall be in writing and is effective when personally delivered to a permittee or posted conspicuously at a food establishment and shall be deemed effective with respect to a food service worker when posted conspicuously at his/her last place of food service employment.

Section 3-607. Condemnation of Foods.

(a) On the recommendation of the Health Inspector, the Enforcement Authority may direct law enforcement officials of the Tribe to seize and destroy food which is contaminated or misbranded.

(b) Any attempt by the owner, operator, or handlers of a food establishment to prevent the seizure of contaminated or misbranded food may result in revocation of any existing permits.

(c) Before removing seized food from a food establishment, law enforcement officials will leave an itemized receipt with the owner, operator, or food handlers present, or by posting conspicuously at the establishment.

(d) No seized food may be destroyed until at least ten (10) days after its seizure or during an appeal under Chapter 7, unless it contains infectious or contagious bacterial or other organisms and poses an immediate danger to public health and safety.

CHAPTER 7. APPEAL PROCESS

Section 3-701. Administrative Appeal Procedures.

This administrative appeal process is only applicable to action taken by the Enforcement Authority under Chapters 3, 4 and 6 of this Article. An automatic stay is afforded for actions under Sections 3-308, 3-605, 3-606(b) until the final decision rendered in the appeal process or the appeal time for food establishments, managers, operators and handlers has lapsed.

(a) Food establishments, managers, operators and handlers who are appealing the Enforcement

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Authority's decision under Chapters 3, 4 and 6 shall be afforded an one-time reconsideration by the Enforcement Authority of their application upon a showing of good cause in writing within three (3) business days from issuance by the Enforcement Authority. The Enforcement Authority must respond to the reconsideration within three (3) business days from the date of request for consideration. A request for reconsideration shall be deemed to have shown good cause if it:

- (1) presents significant relevant information not previously considered by the Enforcement Authority;
- (2) demonstrates that significant changes have occurred in the factors or circumstances considered by the Enforcement Authority in reaching its decision; or
- (3) demonstrates that the Enforcement Authority failed to follow its adopted procedures in reaching its decision.

(b) If the reconsideration under Subsection (a) is denied, food establishments, managers, operators and handlers may be appealed by filing a written petition with the Enforcement Authority within five (5) business days of notice of the reconsideration decision.

(c) Appeals from decisions to suspend a permit, exclude a food service worker from employment, or from a seizure of contaminated or misbranded food will be heard and determined within seventy-two (72) hours. All other appeals will be heard and determined within ten (10) days. These times may be extended at the petitioner's request.

(d) Administrative appeal hearings under this Chapter are closed to the public. Legal counsel may not be present at this hearing.

Section 3-702. Tribal Court.

Food establishments, managers, operators and handlers may file suit in the Tribal Court to redress the decision(s) made by the Enforcement Authority limited only to the issues raised at the administrative appeal process in this Chapter within ten (10) business days of the final administrative appeal decision. Food establishments, managers, operators and handlers may not pursue monetary damages and attorney, court and litigation costs under for suits arising from the actions arising from the administrative appeal process. The Tribal Court can only grant injunctive relief for actions arising from the administrative appeal process. All evidence submitted during the administrative appeal hearing shall be disclosed to the Court by all parties involved in the lawsuit.

CHAPTER 8. CIVIL ACTIONS, VIOLATIONS, AND PENALTIES

Section 3-801. Citation and Civil Actions.

(a) The Enforcement Authority, through its designee(s), and CRIT Law Enforcement Authority may issue civil citation to the person and/or establishment that is in violation of any provisions under Chapter.

(b) The Enforcement Authority is authorized to commence a civil action for any appropriate relief for a violation of this Article, including, but not limited to, restitution, attorney's fees, litigation related costs, punitive damages, permanent or temporary injunction, and other equitable relief.

(c) Anyone injured by reason of a violation of this Article by a food establishment or by consumption of any contaminated or misbranded food negligently processed or prepared by a food establishment, may recover actual and punitive damages, attorney's fees, and litigation related costs from the owner of the establishment in Tribal Court.

Section 3-802. Service.

(a) A citation issued pursuant to this Article may be served by delivering a copy of the citation to the person charged with the violation or by any means authorized by the rules of civil procedure for serving a civil complaint. The original civil citation shall be filed in Tribal Court within ten (10) court days of the time the citation was issued.

(b) All other civil proceedings shall be in accordance to the Tribal Rules of Civil Procedures.

Section 3-803. Citation Hearing Proceedings.

(a) A person served with a civil citation shall:

- (1) Appear at the time and place designated by Tribal Court.
- (2) Admit or deny the allegations of the citation.

(b) Allegations not denied at the time of appearance are deemed admitted.

(c) If the allegations are admitted, the court shall enter judgment for the Tribes and shall impose a civil fine. The person may admit the allegations with an explanation, and then the court shall enter judgment for the Tribes and impose a civil fine. In determining the civil fine, the court may consider the explanation submitted.

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(d) If the allegations are denied, the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the Tribes are required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten days before the hearing date. Hearings may be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the Tribes, the court shall enter judgment for the Tribes and impose a civil fine.

(e) If a person served with a civil citation alleging a violation of this Article fails to appear at or before the time directed to appear or at the time set for a hearing by the court, the allegations in the citation are deemed admitted, and the court shall enter judgment for the Tribes and impose a civil fine.

Section 3-804. Civil Penalties.

(a) Any food establishment or handler who operates a food establishment without a valid permit/card, or under a suspended or revoked permit shall be fined fine not more than One Hundred Dollars (\$100.00) for each violation. Each day during which such unlawful operation shall continue shall constitute a separate violation.

(b) Any person who knowingly operates a food establishment in which contaminated food is served or sold, or in which food service workers suffer from or are carriers of infectious or contagious disease shall be fined not more than Five Hundred Dollars (\$500.00) for each violation. Each day during which such unlawful operation shall continue shall constitute a separate violation.

(c) Any person who prevents or obstructs any actions taken by the Health Inspector under Chapter 6 shall be fined not more than Five Hundred Dollars (\$500.00) for each violation. Each day of prevention or obstruction of Chapter 6 compliance procedures shall constitute a separate violation.

(d) Any person who knowingly misbrands food, or knowingly sells or serves misbranded food in a food establishment shall be fined not more than Five Hundred Dollars (\$500.00) for each violation. Each day during which misbranded food is knowingly sold or served in a food establishment shall constitute a separate violation.

Section 3-805. Punitive Damages.

Any person adjudged to have engaged in a pattern or practice of violating this Article may be liable for punitive damages in an amount not to exceed one thousand dollars (\$1,000) for each pattern of each subsection in Section 3-804 violation.

Section 3-806. Remittance of Fines.

Court judgments and monies collected pursuant to this Section shall be remitted to the Colorado River Indian Tribes and shall be used to defray the costs of the Tribes' Food Safety Enforcement Program under this Article.

CHAPTER 9. SEVERABILITY CLAUSE

Section 3-901. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Article.

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